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Of Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

GARY ODOM, an Oregon resident

Plaintiff

Case No.: CV 09-236-MO

v.

DEFENDANT'S ANSWER AND
COUNTERCLAIM

AUTODESK, INC., a Delaware corporation;

Defendants.

Defendant Autodesk, Inc. ("Autodesk"), through its undersigned counsel, responds to the Plaintiff's Corrected Complaint for Patent Infringement filed by Gary Odom, ("Odom") as follows:

NATURE OF THE ACTION

Autodesk admits that Odom has brought this action against Autodesk under Title 35, United States Code.

JURISDICTION AND VENUE

1. Autodesk denies the applicability of 28 U.S.C. 1337, but otherwise admits the allegations of paragraph 1 of the Complaint.

2. Autodesk denies committing acts of infringement in this District or elsewhere, but otherwise admits the venue allegations of paragraph 2 of the Complaint.

PARTIES

3. Autodesk acknowledges that Odom purports to allege all facts, except those concerning Odom, on information and belief.

4. On information and belief, Autodesk admits the allegations in paragraph 4 of the Complaint.

5. Autodesk has insufficient information on the allegations in paragraph 5 of the Complaint, and therefore denies the same, leaving Odom to his proofs.

6. Autodesk admits the allegations in paragraph 6 of the Complaint.

ALLEGED INFRINGEMENT OF U.S. PATENT NO. 7,363,592

7. Autodesk admits the issuance, issue date, and title of the '592 patent, and admits that a copy is attached to the Complaint as Exhibit A; but Autodesk has insufficient information on the remaining allegations in paragraph 7 of the Complaint, and therefore denies the same, leaving Odom to his proofs.

8. Autodesk denies the allegations in paragraph 8 of the Complaint.

9. Autodesk denies the allegations in paragraph 9 of the Complaint.

10. Autodesk acknowledges that paragraph 10 of the Complaint purports to set forth a legal conclusion which Autodesk maintains does not require answer; but to the extent it seeks one, Autodesk denies the legal conclusion in paragraph 10 of the Complaint.

ODOM'S JURY DEMAND

11. Autodesk acknowledges Odom's request for a trial by jury in paragraph 11 of the Complaint for a trial by jury.

ODOM'S PRAYER FOR RELIEF

12. Autodesk acknowledges Odom's prayer for relief and denies Odom is entitled to the relief requested or any other relief.

AUTODESK'S AFFIRMATIVE AND OTHER DEFENSES

Reserving the right to assert additional defenses as may be warranted, including but not limited to defenses related to validity or enforceability, and without accepting burden of proof on any matter where the burden is Odom's, Autodesk asserts the following:

13. Autodesk has not literally, equivalently, directly, or indirectly infringed the '592 patent.

14. The '592 patent claims are invalid in light of one or more of the requirements and conditions in Title 35 of the United States Code, including, without limitation, those in §§ 101,102,103, and/or 112.

15. Odom does not meet requirements for exceptional case status or attorney fees.

16. Odom does not meet requirements for injunctive relief.

17. Odom has no good faith basis to assert infringement by Autodesk.

18. To the extent accused products have been used or manufactured by or for the United States, Odom is barred by 28 U.S.C. § 1498(a) from relief.

COUNTERCLAIM

(Declaratory Judgment)

For its Counterclaim, Autodesk alleges the following.

19. Autodesk restates paragraphs 1-18 above as though fully set forth here.

20. This is a counterclaim for a declaratory judgment under the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.* and under the United States Patent Act, 35 U.S.C. § 1, *et seq.* that

Autodesk does not infringe any enforceable claim of the '592 patent and that the claims of the '592 patent are invalid.

21. Based on Odom's assertions of infringement, an actual and justiciable controversy exists between Odom and Autodesk regarding infringement and validity of the '592 patent.

22. Jurisdiction over this counterclaim is based on 28 U.S.C. § 1331 and § 1338(a), and venue is proper based on 28 U.S.C. § 1391(b) and § 1400(a).

DEMAND FOR JURY TRIAL

Under Rule 38 of the Federal Rules of Civil Procedure, Autodesk demands a trial by jury on all issues so triable in this action.

AUTODESK'S REQUEST FOR RELIEF

WHEREFORE, Autodesk prays:

- A. That the Court dismiss Odom's Complaint and deny Odom any relief;
- B. That the Court declare that Autodesk has not infringed the '592 patent;
- C. That the Court declare the '592 patent invalid;
- D. That the Court declare this to be an exceptional case and award Autodesk its attorney fees, expense and costs.
- D. That Autodesk be accorded such other and further relief deemed just and proper.

DATED this 24th day of July, 2009.

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